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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,317	02/21/2002	Kuniaki Kurihara	09792909-5351	8182

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SONNENSCHN NATH & ROSENTHAL LLP  
P.O. BOX 061080  
WACKER DRIVE STATION, SEARS TOWER  
CHICAGO, IL 60606-1080

EXAMINER
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ADHAMI, MOHAMMAD SAJID

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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## Office Action Summary

Application No.

10/080,317

Applicant(s)

KURIHARA, KUNIAKI

Examiner

Mohammad S. Adhami

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

- Applicant's Amendment filed 2/13/2007 is acknowledged.
- Claims 1,2 and 5-12 have been amended.
- Claim 3 has been cancelled.
- Claims 1,2 and 4-12 are pending.

### ***Specification***

1. The disclosure is objected to because of the following informalities: On pg.13, line 13, "server 1 to the wireless terminal 5 via the wired network 2" should be "server 1 to the wireless base station 3 via the wired network 2".

Appropriate correction is required.

### ***Claim Objections***

1. Claims 6-8 are objected to because of the following informalities: The limitation "receiving, from said transmission party, receiving information" should be "receiving, from said transmission party, information". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7,8,11 and 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims fail to meet the criteria set in the

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Interim Guidelines for Examination of Patent Application for Patent Subject Matter

Eligibility

([http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf)), which state a program is non-statutory, unless claimed as "computer-readable

medium encoded with a computer program".

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### **Re claims 1 and 6-8:**

It is unclear what the distinction between *a first set of information units* and *a second set of information units* is. In the context of the claim, it is unclear what *information* refers to. Is the information packets, codes about transmission, video and audio content, etc.? The limitations referring to information are vague and indefinite and therefore are confusing as written.

The limitation *clocking the time when the first information is transmitted* is confusing because first information is claimed as being transmitted with first information units, so is the time the first information unit is transmitted clocked?

The limitation *retransmitting first information* is vague and indefinite. The earlier limitation states that first information units are transmitted, so is the retransmission of first information the retransmission of first information units.

The limitation *received information indicates the transmission party has not yet received first information* is vague and indefinite. What is the first information and how does it indicate the first information has not been received.

The limitation *the first and second transmission units transmit the first and second information using second sets of information units* conflicts with the earlier limitation *transmitting first information in a first set of first information units*.

**Re claim 2:**

It is unclear what the distinction between “first packets” and “second packets” is.

**Re claims 3-5:**

Claims 3-5 are rejected because they depend from rejected claims.

**Re claims 9-12:**

It is unclear what the distinction between *second packets* and *first packets* is. It is unclear what the *second packets* and *first packet* are. The limitation *receiving information for second packets, which are created by dividing first packets, which are created by dividing received information* is vague and indefinite.

In the context of the claim, It is unclear what *information* refers to. Is the information packets, codes about transmission, video and audio content, etc.? The numerous recitations of *information* render the claim vague and indefinite.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2 and 6-8 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Jalali in view of Hamilton (US 6,392,993).

#### **Re claims 1 and 6-8:**

Jalali discloses *transmitting first information to a transmission party* (Fig.1 ref.106).

Jalali further discloses *receiving information about the reception of the first information from the transmission party* (Fig.1 ref.104 and Fig.3 ref.312).

Jalali further discloses *clocking the time from when the first information was transmitted* (Para.[0052] "the maximum number time for which a packet can remain in the first-time queue after the packet has been transmitted" where being able to know the time a packet has remained in a queue after being transmitted entails clocking the time for when the packet was first transmitted).

Jalali further discloses *determining whether or not the clocked time exceeds a reference value* (Fig.3 ref.316 and Para.[0052] “the parameters comprise, e.g., the maximum number of times a packet can be retransmitted and the maximum number time for which a packet can remain in the first-time queue after the packet has been transmitted”).

Jalali further discloses *retransmitting the first information when it is determined that the clocked time does not exceed a reference value* (Fig.3 ref.320).

Jalali further discloses *transmitting second information when it is determined that the clocked time exceeds a reference value* (Fig.3 ref.318 where the first information is no longer transmitted, so the transmission of second information will begin).

Jalali further discloses *retransmitting the first information or transmitting the second information, as disclose above, when the transmission party indicates the first information has not been received* (Fig.3 ref.312 where a NAK indicates the first information has not been received).

Jalali does not explicitly disclose *dividing first sets of information units corresponding to first and second information into a plurality of corresponding second sets of information units*.

Hamilton discloses *dividing first sets of information units corresponding to first and second information into a plurality of corresponding second sets of*

*information units* (Fig.7 reference 124 where the "first sets" are messages and the "second sets" are the packets that make up the messages).

Jalali and Hamilton are analogous because they both pertain to data transmission.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jalali to include dividing individual first packets into individual second packets as taught by Hamilton in order to use a commonly known method of transmitting data over a network.

**Re claim 2:**

Jalali further discloses *using packets for transmission* (Abstract A transmitting terminal transmits signals in a form of packets to a receiving terminal).

5. Claim 4 (as best understood) is rejected under 35 U.S.C. 103(a) as being unpatentable over Jalali in view of Hamilton as applied to claim 1 above, and further in view of Tseung (US 5,109,384).

**Re claim 4:**

As discussed above, Jalali meets all the limitations of the parent claims.

Jalali does not explicitly disclose *setting a flag indicating that the clocked time exceeds the reference value*.

Tseung discloses *setting a flag indicating that the clocked time exceeds the reference value* (Col.22 lines 62 and 63 "The timer would expire (the ACK



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timer expired on network B flag 866 would be set) and " where the timer expires after a "reference value" is exceeded).

Jalali, Hamilton and Tseung are analogous because they all pertain to data transmission.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jalali to include setting a flag indicating the clocked time has exceeded a reference value as taught by Tseung in order to make appropriate data processing decisions regarding the communication of multi-packet messages.

6. Claim 5 (as best understood) is rejected under 35 U.S.C. 103(a) as being unpatentable over Jalali in view of Hamilton and Tseung as applied to claim 4 above, and further in view of Kamihara (US 6,854,020).

**Re claim 5:**

As discussed above, Jalali meets all the limitations of the parent claims.

Jalali does not explicitly disclose *writing the flag into the second information that is transmitted*.

Hamilton discloses *writing the flag into the second information that is transmitted* (Abstract "The positive reliability mode...sets [a]...flag in the packets transmitted" where setting the flag in the packets involves "writing" the flag and Table 3 in Col.11 lines 43-60).

Jalali and Hamilton are analogous because they both pertain to data transmission.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jalali to include writing a flag into the second information that is transmitted as taught by Hamilton in order to notify the receiver of the condition represented by the flag.

Jalali does not explicitly disclose *clearing the flag when all of the second packets are transmitted*.

Kamihara discloses *clearing the flag when all of the second packets are transmitted* (Col3 lines 55 and 56 "clearing the transmission-in-progress flag on condition that packet transmission has ended" where after the transmission is complete, a flag is cleared).

Jalali, Hamilton, Tseung, and Kamihara are analogous because they all pertain to data transmission.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jalali to include clearing the flag after all the second packets are transmitted as taught by Kamihara in order to make appropriate data processing decisions regarding the communication of multi-packet messages.

### ***Response to Arguments***

7. Applicant's arguments filed 2/13/2007 have been fully considered but they are not persuasive.

**Re claims 1,6-12:**

In the remarks on pg.11-12, Applicant contends that Hamilton does not disclose *dividing a first set of first and second information units into corresponding second sets of information units*.

The Examiner respectfully disagrees. Hamilton reads on the invention as claimed. Hamilton teaches *dividing a first set of first and second information units into corresponding second sets of information units* (Fig.7 reference 124 where the "first sets" are messages and the "second sets" are the packets that make up the messages).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the generation of first units from the division of a message) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

**Re claim 2:**

In the remarks on pages 10 and 11 of the remarks section, Applicant contends that the presented amendment overcomes the 112 2<sup>nd</sup> paragraph rejection.

The Examiner respectfully disagrees. The Amendment still does not clarify the distinction between the first packets and the second packets.

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**Re claims 9-12:**

In the remarks on pages 9 and 10 of the remarks section, Applicant contends that the presented amendment overcomes the 112 2<sup>nd</sup> paragraph rejection.

The Examiner respectfully disagrees. The Amendment still does not clarify the distinction between the first packets and the second packets.

In the remarks on pg.14, Applicant contends Hamilton fails to teach information being divided into a first set of individual units and the first set of individual units being divided into a second set of information units.

The Examiner respectfully disagrees. The limitations of first set and second set of information units are not recited in the claims.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad S. Adhami whose telephone number is (571)272-8615. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571)272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSA 3/22/2007



HASSAN KIZOU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600